

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

September 27, 2005

GSBCA 16709-RELO

In the Matter of CRAIG J. SCHWARTZ

Craig J. Schwartz, St Croix, VI, Claimant.

Joseph E. Ross, Associate Chief Counsel, Office of Chief Counsel, Drug Enforcement Administration, Department of Justice, Arlington, VA, appearing for Department of Justice.

GOODMAN, Board Judge.

Claimant is an employee of the Department of Justice, Drug Enforcement Agency. He has requested that this Board review the agency's denial of certain costs he incurred during a permanent change of station (PCS) transfer.

Claimant was issued travel orders with a report date of October 31, 2004, to his new duty station in the United States Virgin Islands. On August 27, 2004, claimant and his spouse signed a contract to purchase a house with a closing date of November 15, 2004, but the owner refused to proceed with the transaction. Claimant and his spouse then rented property on a month-to-month basis while looking for another home to purchase.

In December 2004 they entered into a contract to purchase another home. The closing date in late January 2005 was delayed because the title company stated that it would require a waiver from the mortgage company, to be supplied by the adjoining property owner, because of a setback violation on the property that claimant sought to purchase, i.e., the structure on the property was too close to the adjoining property. The attorney for the seller told claimant that this was extremely common on the island and normally the seller, as the current owner, would obtain the adjoining property owner's waiver.

The adjoining property was a vacant lot and the absentee owner demanded \$5000 from the seller to sign the waiver. The seller refused to pay for the waiver and said he would simply relist the property again if claimant did not buy it. Claimant negotiated directly with the adjoining property owner and paid \$3000 for the waiver. The agency denied reimbursement of the \$3000 paid for the waiver, stating that reimbursement of this expense was not authorized, and claimant asks that we review the agency's determination.

Discussion

Pursuant to the Federal Travel Regulation (FTR), transferred federal employees are entitled to reimbursement for certain residence transaction expenses that are customarily paid by the purchaser of a residence at a new official duty station. 41 CFR 302-11.200 (2004).

Claimant paid \$3000 to an adjoining property owner for a waiver that, according to advice received by claimant, is customarily obtained by the seller of the property, not the purchaser. The agency is not authorized by statute or regulation to reimburse claimant for this expense.

Decision

The claim is denied.

ALLAN H. GOODMAN
Board Judge